IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.80/2003

M/s. Gamma Manganese Chemicals,
Commerce Center, 4th Floor,
Dr. Rajendra Prasad Road,
Neaer Cine Vasco,
Vasco-da-Gama, Goa-403 802. ..... Appellant.

V/s.

M/s. Petrofils Cooperative Ltd.,
P.O. Petrofils 391347,
Dist. Vadodara, Gujarat. .... Respondent.

Mr. S.G. Bhobe, Advocate for the appellant.

Mr. N.K. Sawaikar, Advocate for the respondent.

CORAM : F.I. REBELLO, J.

DATE : JUNE 19, 2003.

ORAL JUDGMENT:

By consent heard forthwith, though the records are not available. During the pendency of the suit, a Liquidator has been appointed for the respondent Company. Once the Liquidator is appointed, the suit cannot be proceeded with without leave of the Central Registrar as the Society is a Multi-State Co-operative Society. The learned trial Judge proceeded on the footing that the suit would not be maintainable. This clearly amounts to an error apparent. At the highest, the suit ought to have been stayed till such time, as the appellant has got permission for continuing the suit. In the event permission was not granted, then

only the suit could have been dismissed. That stage has not reached.

2. Apart from that the learned Counsel for the appellant now informs that independently they have preferred claim before the Official Liquidator, who is seized of the matter. In the light of that, the following Order :

The impugned Judgment and Decree dated 3.9.2002 is set aside. The matter is remanded to the trial Court for fresh consideration. The suit, however, will be stayed till such time as the Official Liquidator is adjudicating the claim of the appellant herein. It is only in the event the appellant is not satisfied with the adjudication, will it be open to the appellant to take such steps in law to continue the suit, if the permission is given by the Official Liquidator. In the event, the Official Liquidator does not give permission, it will be open to the trial Court to proceed to dispose of the suit according to law.

With the aforesaid directions, the first appeal is disposed of, with no order as to costs.

F.I. REBELLO, J.

ssm.